

DEPARTMENT OF STATE REVENUE

REVENUE RULING ST 96-12

DECEMBER 5, 1996

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

Sales/Use Tax -- Purchase and Sale of Medical Supplies

Authority: IC 6-2.5-5-8, IC 6-2.5-5-18, IC 6-2.5-8-8, Rule 45 IAC 2.2-5-27, Rule 45 IAC 2.2-5-28

The taxpayer requests the Department to rule on the application of sales/use tax to the purchase and sale of medical supplies.

STATEMENT OF FACTS

The taxpayer is a health care provider in the State of Indiana. The taxpayer is required to have a physician's signature for all supplies used on patients. The taxpayer cannot use any supplies on a patient unless they are prescribed by a licensed physician. The taxpayer submitted copies of the "Home Health Certification and Plan of Care" form (Medicare 485) and the "Supplemental MD Orders" form for Departmental review. The copies revealed that the specific medical supplies to be used for a patient's care are prescribed by the patient's attending physician with the physician's signature affixed on the form. The taxpayer did not provide copies of its billings to patients. The Department contacted the taxpayer on November 19, 1996 to obtain information on its billings to patients. The taxpayer advised that it submits an itemized breakdown on all medical supplies sold to the patient. The taxpayer advised that it was not a registered pharmacist and did not dispense medication. The taxpayer is a registered retail merchant.

DISCUSSION

IC 6-2.5-5-18 provides that the sale of medical supplies is exempt from sales/use if the sale is prescribed by a person licensed to issue the prescription. Rule 45 IAC 2.2-5-27 states that "prescribed" means a certification in writing, by a person licensed or registered to fit and/or dispense such devices and that the use of the medical equipment, supplies and devices is necessary to the purchaser in order to correct or to alleviate a condition brought about by injury to, malfunction of, or removal of a portion of the purchaser's body.

Medical equipment and supplies purchased for use in performing medical or similar services for compensation are not exempt from tax. Examples of such purchases include:

- (1) Office furniture, equipment, and supplies.
- (2) Drugs of a type not requiring a prescription when not purchased for resale.
- (3) Surgical instruments, equipment and supplies.
- (4) Bandages, splints, and all other medical supplies consumed in professional use.
- (5) X-ray, diathermy, diagnostic equipment, or any other apparatus used in the practice of surgery or medicine.

A health care provider who purchases tangible personal property subject to sales/use tax, such as bandages, splints and other medical supplies, but intends to resell such property to a patient, may make such purchases exempt from sales tax by using an Indiana exemption certificate. In order to resell such items, the health care provider must be licensed as a retail merchant, and must quote the selling price of any items separately from the charge for professional service. Sales tax must be collected from the patient on the separately stated items, unless such items are being purchased by the patient pursuant to a prescription issued by a licensed physician.

In the instant case, the taxpayer is a registered retail merchant and advises the Department that the sales price of all medical supplies sold to a patient are separately stated from any charges for professional service. Taxpayer advises that all sales of medical supplies to patients are sold pursuant to a prescription.

RULING

The Department rules that the taxpayer's sale of medical supplies sold to its patients is not subject to sales/use tax provided the selling price for the medical supplies is separately stated from the charge for professional services and provided the taxpayer has a prescription issued by a licensed physician on file to cover the sale of specifically prescribed medical supplies to such patient. Any medical supplies used by the health care provider in the rendition of its professional service is subject to tax.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein, are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in a statute, a regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

INDIANA DEPARTMENT OF REVENUE